

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:22-00091

LESLIE RUSSELL BURNEY

MEMORANDUM OPINION AND ORDER

Pending before the court is the motion of defendant for a continuance of trial and all related deadlines. (ECF No. 36.) In support of defendant's motion, counsel for defendant explains that he assumed representation of the defendant just today and he needs additional time to review discovery and investigate this matter. The government does not oppose a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Id. § 3161(h)(7)(B)(iv).

Accordingly, the court hereby **ORDERS** as follows:

1. The deadline for the filing of pretrial motions is continued to December 29, 2022;
2. The Pretrial Motions Hearing is continued to January 10, 2023, at 2:30 p.m. in Charleston;
3. Jury Instructions and Proposed Voir Dire are due by February 28, 2023;
4. Trial of this action is continued to March 7, 2023, at 9:30 a.m. in Charleston; and
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 8th day of December, 2022.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge